

**Franchise Tax Board****ANALYSIS OF ORIGINAL BILL**

Author: DeSaulnier Analyst: Matthew Cooling Bill Number: SB 516  
Related Bills: See Legislative History Telephone: 845-5983 Introduced Date: February 26, 2009  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Establish Voluntary Contribution For California Fund For Youth

**SUMMARY**

This bill would establish the California Youth Legislature, the California Fund for Youth, and a designation for a voluntary contribution on the personal income tax return to the California Fund for Youth.

**PURPOSE OF THE BILL**

According to the author's office, the purpose of this bill is to promote the developmental needs of the youth and to provide a forum for the youth to voice concerns and increase involvement in the development of statewide youth programs.

**EFFECTIVE/OPERATIVE DATE**

Assuming enactment in 2009, this bill would be effective on January 1, 2010, and operative as of that date.

**POSITION**

Pending.

**ANALYSIS****FEDERAL/STATE LAW**

Current federal tax law provides a true check off to direct \$3 of a taxpayer's tax liability to the Presidential Campaign Fund. Designation of the \$3 amount does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows taxpayers to make contributions of their own funds (not tax liability) on their personal income tax returns to any of the 15 voluntary contribution funds (VCF) listed on the 2008 return.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA        X   PENDING

Department Director

Date

Selvi Stanislaus

04/13/09

With the following exceptions, VCFs remain on the return until they are either repealed or fail to meet their minimum contribution amount:

- Except for the California Seniors Special Fund, which has no sunset date, each VCF has a specific sunset date.
- Except for the California Seniors Special Fund, the California Firefighters Memorial Fund, and the California Peace Officer Memorial Foundation Fund, each VCF must meet an initial minimum contribution amount of \$250,000.
- Except for the California Fund For Senior Citizens, each of the remaining VCF minimum contribution amounts is adjusted annually for inflation.

The annual inflation adjustment is based on the percentage change in the California Consumer Price Index. The Franchise Tax Board (FTB) is required to make the following two determinations for each VCF by September 1 of each calendar year:

1. The minimum contribution amount required for the VCF to remain on the return for the following calendar year, and
2. Whether estimated contributions to the VCF will be less than the minimum contribution amount for that calendar year.

If FTB estimates that a VCF will fail to meet or exceed the minimum contribution amount for a calendar year, that VCF is repealed effective January 1 of that calendar year.

Current state law provides that if the number of contingent voluntary contribution designations<sup>1</sup> that are eligible to be added to the personal income tax return is greater than the number of designations removed, then the voluntary contribution designations will be queued and added to the return in order of the date of enactment.

### THIS BILL

This bill would establish the California Fund for Youth and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their tax returns in full dollar amounts of \$1 or more. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable.

Upon enactment, this bill would require FTB to revise the personal income tax return to include a designation space for the fund. It would allow the voluntary contribution designation to remain on the tax return until January 1, 2015, unless a later enacted statute deletes or extends that date.

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<sup>1</sup> A contingent voluntary contribution designation is a voluntary contribution designation that contains specific language stating that it may not be added to the return until another voluntary contribution designation is removed from the return.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, then the taxpayer's return would be treated as if no designation has been made.

This bill would establish the California Youth Legislature. It would also require the Controller to transfer money designated for this fund by taxpayers from the Personal Income Tax Fund to the California Youth Legislature.

### IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

Department staff has indicated that there is currently no space available on the personal income tax return for additional voluntary contributions and that the return could increase to three pages if this bill is enacted as written. Increasing the tax return to three pages would cause the department to incur significant costs. The author may wish to amend this bill to include contingency language that would allow FTB to place the designation on the return as current designations are removed, as specified by the statutes<sup>2</sup>.

Additionally, this bill states that FTB would be reimbursed for the costs associated with implementing this fund. If the tax return increases to three pages, the associated costs could be in excess of \$2 million, which, based on the amount of contributions expected to be received by this fund, would not be reimbursed within the short term. An appropriation will be requested as the bill moves through the legislative process.

This bill uses the term "encumbered" money. Without a clear definition, it may be difficult to disperse allocated funds. The author may wish to revise the bill to define this term or remove it from the language.

### TECHNICAL CONSIDERATIONS

Amendments 1 and 2 would correct a drafting error that would duplicate section 18731 of the California Revenue and Taxation Code.

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### **LEGISLATIVE HISTORY**

AB 292 (Yamada, 2009/2010) would extend the expiration date of the Alzheimer's Disease and Related Disorders Research Fund from January 1, 2010, to January 1, 2015. This bill is currently set for hearing in the Assembly Revenue and Taxation Committee.

AB 1049 (Torrico, 2009/2010) would create a VCF designation on the personal income tax return for taxpayers to contribute to the Safely Surrender Babies Fund. This bill has been referred to the Assembly Revenue and Taxation Committee.

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<sup>2</sup> Article 16 (beginning with section 18871) of Chapter 3 of Part 10.2 of the Revenue and Taxation Code contains general provisions for all VCFs and their designations on the personal income tax return.

AB 1088 (Fletcher, 2009/2010) would create a VCF designation on the personal income tax return in order for taxpayers to contribute to the Morale, Welfare, and Recreation Fund for each of the veterans' homes, as provided. This bill is currently set for hearing in the Assembly Veterans Affairs Committee.

SB 91 (Correa, 2009/2010) would extend the expiration date of the California Fund for Senior Citizens from January 1, 2010, to January 1, 2015. This bill is currently set for hearing in the Senate Revenue and Taxation Committee.

## PROGRAM BACKGROUND

Fifteen voluntary contribution funds appeared on the 2008 personal income tax return. Total contributions to these funds have varied from approximately \$3.4 million for the 1989 taxable year to approximately \$4.2 million for the 2007 taxable year.

## OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

*Florida* does not have a personal income tax but allows contribution designations on the state's motor vehicle registration and renewal forms.

None of these states provide a voluntary contribution comparable to the one proposed by this bill.

## FISCAL IMPACT

The current forms have limited space available for additional lines. If the department was required to make room on the return for this voluntary contribution, along with other pending legislation that would impact the return, the forms would increase from two to three pages. As a result, the department would incur significant costs for revising the forms and instructions, printing, systems changes, processing, and storage. The amount of the costs will be determined as this bill moves through the legislative process and an appropriation will be requested if necessary.

If this bill is amended to resolve the Implementation Considerations addressed in this analysis, the bill would not impact the department's costs.

## ECONOMIC IMPACT

### Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of SB 516 Effective On or After January 1, 2010 Enactment Assumed After June 30, 2009			
California Youth Legislation Fund	2009-10	2010-11	2011-12
	No impact.	-\$15,000	-\$15,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

### Revenue Discussion:

The estimated revenue impact of this bill would be determined by the amount of contributions to the California Fund for Youth and the subsequent itemized deduction of such contributions.

For this estimate, the following assumptions are made:

1. The Fund would be added to the 2009 return,
2. The annual contribution amount (\$250,000) would be achieved each year, and
3. An itemized deduction would be allowed and claimed for each contribution.

By applying an average marginal tax rate of 6.25 percent, the estimated revenue loss of this bill would be approximately \$15,000 annually ( $\$250,000 \times 6.25\% \approx \$15,000$ ). Because contributions reported on the 2009 tax return are actually made during the 2010 calendar year, the revenue impact would not occur until fiscal year 2010/2011.

### **POLICY CONCERNS**

VCF legislation is generally enacted with contingency language that allows FTB to place a voluntary contribution designation on the tax return through a queuing process. This bill lacks the contingency language, which creates inequity between the treatment of this fund and the treatment of other funds currently in the legislative process and in the queue.

This bill fails to specify an annual minimum contribution amount. In general, legislation specifying an annual minimum contribution amount is included in order to allow periodic review of the fund. In most cases, if a voluntary contribution does not meet the annual minimum contribution, as specified by enacted legislation and this department, the VCF would be repealed and the designation is removed from the return in the following year.

### **LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO SB 516  
As Introduced February 26, 2009

AMENDMENT 1

On page 2, line 1, after "SECTION 1." insert:

Section 18731 of the Revenue and Taxation Code, as amended by Section 1 of Stats. 1996, Ch. 960, is repealed.  
SEC. 2.

AMENDMENT 2

On page 3, line 30, strikeout "SEC. 2" and insert:

SEC. 3